Supreme Court, U.S.
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No. 98-1803

IN THE
Supreme Court of the United States

RONNIE L. GIBSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

SUPPLEMENTAL BRIEF FOR THE PETITIONER

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SUPPLEMENTAL BRIEF FOR THE PETITIONER

1. In his petition and reply, petitioner demonstrated that the courts of appeals are hopelessly divided on whether, and under what circumstances, sentencing-appeal waivers contained in plea agreements are valid. (Pet. 8-13; Reply 1-2) A recent decision by the Seventh Circuit, unavailable at the time petitioner filed his reply, further demonstrates the deep split among the courts of appeals.

2. In *United States v. Williams*, 184 F.3d 666 (7th Cir. 1999), the court rejected a defendant's argument that his sentencing-appeal waiver "should be invalidated because he did not receive a sufficient benefit in exchange for his promise not to appeal." *Id.* at 671. The defendant relied on the Second Circuit's decision in *United States v. Goodman*, 165 F.3d 169 (2d Cir. 1999) in making this argument. As petitioner demonstrated in his petition (Pet. 10-12 & n.7), the Second Circuit employs a "close-look" review of sentencing-appeal waivers with key factors including whether the sentencing judge "suggested, contrary to the language of the agreement that [the defendant] would retain the right to appeal her sentence" and whether the defendant "obtained substantial benefits from the plea bargain." *Goodman*, 165 F.3d at 174-75. The Seventh Circuit expressly rejected *Goodman*, describing defendant's reliance on the case as "misplaced" because "to adopt *Goodman*'s rationale in this case could have the effect of either overruling our prior decisions or at least casting serious doubt on them . . . ." 184 F.3d at 671.

3. *Williams* provides further proof that the split among the courts of appeals regarding the proper method of assessing the validity of sentencing-appeal waivers is continuing and deepening. The need for uniformity on this issue is critical, both for defendants and for prosecutors. Certiorari should be granted to address this pervasive problem.

CONCLUSION

For the foregoing reasons, as well as those stated in the petition and reply, certiorari should be granted.

Respectfully submitted,

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